

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR 1989-012631

09/23/2013

HON. ROSA MROZ

CLERK OF THE COURT
J. Matlack
Deputy

STATE OF ARIZONA

VINCE H IMBORDINO

v.

DEBRA JEAN MILKE (A)

MICHAEL D KIMERER
LORI L VOEPEL
LARRY L DEBUS

CAPITAL CASE MANAGER
JUDGE WELTY

CAPITAL/COMPLEX CASE MANAGEMENT CONFERENCE/
TRIAL SET/LAST DAY EXTENDED

1:31 p.m.

Courtroom 7D - SCT

State's Attorney:	Vince Imbordino
Defendant's Attorney:	Michael Kimerer & Lori Voepel
Detective Saldate's Attorney:	Larry Debus
Defendant:	Present

Court Reporter, Monica Hill-Morrisette, is present.

A record of the proceeding is also made by audio and/or videotape.

Discussion held regarding the State's Notice of Letter from United States Attorney's Office. The Court finds the State's explanation as to why the Court was not informed about such a letter surprising. The Court advises the State that if the State believes the information to be relevant enough and developed enough to discuss it at a press conference, then the State should have given the information to the Court because the Court will be deciding whether Detective Saldate may invoke his privilege against self-incrimination, not the media.

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Discussion held regarding the last day and trial dates. The parties stipulate to a **Last Day of February 27, 2015**.

Discussion held regarding Detective Saldate. His attorney, Larry Debus, informs the Court that his advice remains that Saldate should invoke his 5th Amendment privilege against self-incrimination, and that Saldate still plans to invoke this privilege.

IT IS ORDERED that the State shall file a Motion/Memo regarding Saldate's ability to invoke his 5th Amendment privilege **by October 31, 2013**. The Defense and Mr. Debus's Response is due **by November 15, 2013**.

IT IS FURTHER ORDERED setting an Evidentiary Hearing re: State's Motion or Memorandum re: Detective Saldate's Ability to Invoke his 5th Amendment Privilege on ***December 6, 2013 at 1:30 p.m. (3 hours)*** in this division. **Detective Saldate shall be present for this hearing.**

Discussion held regarding Defendant's Motion to Suppress confession. State indicates it will file its Response today.

IT IS ORDERED that the Defense shall file its Reply **by October 31, 2013**.

IT IS FURTHER ORDERED setting an Evidentiary Hearing re: Defense's Motion to Suppress for ***January 13th, 14th, 15th, 16th, and 17th, 2014 at 1:30 p.m.*** in this division.

Defense indicates that it will file a motion to preclude the court's consideration of State's materials that will rebut the 9th Circuit court's finding. It will also be filing a motion to dismiss based on double jeopardy grounds.

Discussion held regarding the parties trying the case in the media. The Court indicates that both sides shall act professionally and ethically. The Court is not ready to issue a gag order about this case. The Court invites the parties to file a written motion about this issue if they believe there is enough facts to support a gag order.

IT IS ORDERED setting this matter for Firm Trial on ***February 2, 2015 at 10:30 a.m.*** in this division.

IT IS FURTHER ORDERED setting Final Trial Management Conference (FTMC) on ***January 23, 2015 at 8:30 a.m.*** before Judge Rosa Mroz.

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Case Management Orders

The Court has reviewed the case management plan.

IT IS ORDERED setting the following schedule for disclosure, discovery, and pre-trial procedures unless the parties obtain written modifications from the Court:

Please note that the Court requires that the disclosure of information required for the aggravation and penalty phases under Criminal Rules 15.1(i) and 15.2(h) to be specific.¹ The Court considers disclosures stating that the party will call the same witnesses and present the same evidence as those presented in the guilt phase to be DEFICIENT.

1. The State shall disclose the specific information required to be disclosed under Criminal Rule 15.1(i)(3)(aggravation phase) by **November 1, 2013**.
2. The defense shall disclose the specific information required to be disclosed under Criminal Rule 15.2(h)(1)(mitigating circumstances; aggravation and penalty phase) by **April 30, 2014**.
3. The State shall disclose the specific information required to be disclosed under Criminal Rule 15.1(i)(5)(penalty phase and rebuttal for aggravation phase) by **June 30, 2014**.
4. The defense shall disclose the specific information required to be disclosed under Criminal Rule 15.2(h)(3)(rebuttal to penalty phase and surrebuttal for aggravation phase) by **August 29, 2014**.
5. All witnesses shall be interviewed by **October 3, 2014**.
6. All documents requiring translation shall be submitted to Court Interpretation and Translation Services (CITS) by **October 3, 2014**. The parties shall advise the Court and CITS of any interpreter needs by **December 2, 2014**.
7. All substantive motions shall be filed by **November 21, 2014**.
8. All motions in limine shall be filed by **January 9, 2015**, and Responses filed by **January 20, 2015**.

¹ For the State, the Court expects specificity as to witnesses and exhibits that will support each aggravating circumstance alleged.

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9. The Court will provide the parties with its proposed jury questionnaire. The parties may submit any proposed amendments to the Court's proposed jury questionnaire by **January 9, 2015**.
10. The parties shall file proposed jury instructions at least one week before the Final Trial Management Conference.

IT IS FURTHER ORDERED that motions in *limine* shall be filed as follows:

- A. Motions in *limine* shall be consecutively numbered in the caption identifying the party filing it and the subject of the motion; e.g. "Defendant's Motion in *Limine* No. 1 Re: Gang Affiliation."
- B. Each motion in *limine* shall deal with one discrete subject.
- C. DO NOT combine a motion in *limine* with ANY other motion.
- D. DO NOT file a "cross-motion in *limine*."
- E. Label responses to motions in *limine* by identifying the number and subject of the motion being responded to; e.g. "State's Response to Defendant's Motion in *Limine* No. 1 Re: Gang Affiliation."
- F. DO NOT respond to more than one motion in *limine* in each response.

IT IS FURTHER ORDERED that all exhibits shall be exchanged **30 days** before trial. Counsel shall confer regarding exhibits so duplicates are avoided. At least **one week** before trial, counsel shall submit all exhibits to the clerk of the division for marking.

Trial Management Order

PURPOSE: These trial procedures are designed to enhance jury comprehension of the facts and issues; to assist counsel in making the maximum, effective use of their trial time; and to assure the "just, speedy and inexpensive determination" of the parties' dispute.

IT IS ORDERED:

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1. Voir dire. This Court uses individual voir dire in capital cases. Counsel may conduct a limited and reasonable examination of each potential juror following the Court's questioning. In the normal case, 5 minutes per side is considered reasonable. Jury "conditioning" will not be allowed.

2. Notification of order of proof. Each side shall notify the other on a "rolling" forty-eight hours' basis of the order in which witnesses will be called. From time to time, counsel may be asked to inform the jury of their order of proof. (Witnesses may be scheduled out of order on agreement of counsel or, if necessary, by order of Court.)

3. Jury questions will be reviewed with counsel and, if appropriate, answered at the first available opportunity.

4. Expert opinions. Counsel are strongly encouraged to elicit the expert's opinion at the earliest, available opportunity. The hypothetical question has been abolished, and the witness' qualifications should be quickly established. In the first ten minutes, the jury should know who the witness is and why the witness is present.

5. Objections shall be stated succinctly and clearly without extended comment or argument. Speaking objections will not be allowed. Although the court will allow contemporaneous making of the record outside of the presence of the jury, consider the frequency of these requests as it may affect the jury's perception of your case.

6. Permission to approach and/or publish. Counsel need not ask the Court's permission to approach the clerk or a witness, nor need counsel ask the Court's permission to publish or pass an exhibit which has been received in evidence to the jury.

7. Microphones. Because of the acoustics of our courtroom, it is often difficult to hear a speaker. For the benefit of the jurors and court staff, it is appreciated if all speakers use the assistance of a microphone, whether at the podium or the attorney tables. A microphone is also provided for witnesses.

8. Technology. Counsel are encouraged to make maximum, effective use of the many forms of trial and courtroom technology which are available. Counsel should ensure that the technology is appropriately set up and working properly before its use is attempted in court.

9. Daily schedule. A trial day is from 10:30 a.m. to 4:30 p.m., with lunch usually from noon until 1:30 p.m., one fifteen-minute break in the morning and one in the afternoon.

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10. Trial interruptions. Trial will not be interrupted for discussion of legal matters. The Court is available daily before and after trial and during regular recesses to consider such matters.

IT IS FURTHER ORDERED affirming prior release conditions/orders.

1:56 p.m. Matter concludes.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Order 2011-140 to determine their mandatory participation in eFiling through AZTurboCourt.